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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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08/645,678 05/14/96 SITRICK

D STD-1563

EXAMINER

F3M1/0828

SITRICK AND SITRICK
SUITE 201
8340 NORTH LINCOLN AVENUE
SKOKIE IL 60077PAPER, N
ART UNIT PAPER NUMBER

3304

DATE MAILED:

08/28/97

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

Responsive to communication(s) filed on May 21, 1997, Mar 14, 1997 and Mar 11, 1997

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three (3) month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

Claim(s) 1-23 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

Claim(s) 1-12 and 23 is/are allowed.

Claim(s) 13-22 is/are rejected.

Claim(s) _____ is/are objected to.

Claims _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The proposed drawing correction, filed on _____ is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Supplemental Official Action

1. In response to applicant's communication received May 21, 1997 regarding a third preliminary amendment, the following corrective action is taken.

The period for response of three (3) MONTHS set in said Office action is restarted to begin with the date of this letter.

2. A supplemental of the last Office action is enclosed.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 13 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Sitrick ('014). Sitrick discloses a video game that incorporates user visual images (11:1-61, Figs. 1A-8) clearly comprising instant features as broadly claimed.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 148 USPQ 459, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or unobviousness.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sitrick ('014). Sitrick discloses a video game comprising instant features (supra) including an apparatus/system having video/image signals being stored, manipulated and integrated into an audiovisual presentation (11:1-61) except "merchandising". Examiner notes "merchandising" is an intended field of use and that Sitrick's apparatus presents video signals rather than "merchandising" signals. However, it would have been an obvious implementation choice of one of ordinary skill in the art to combine "merchandising" with Sitrick's apparatus due to the equivalence of a merchandising image signal with a video image signal.

Alternatively, it would have been an obvious matter of design choice for one of ordinary skill in the arts since applicant has not disclosed that "merchandising" solves any stated problem or is for any particular purpose and it appears

that Sitrick's apparatus would perform equally well with "merchandising".

8. Claims 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bloch et al in view of Ohba or Kato et al. Bloch discloses a video recording system comprising means for providing user image presentation having ancillary attributes (1), means for providing a predefined sequence of an a/v presentation where the user's image is integrated therein (10:33-61, 14:11-26 and 38-62), with a storage device including a transportable storage means for use in a plurality of independent presentation means (5:7-13, 10:66 - 11:11), means for providing a modified a/v presentation responsive to the user image data and predefined image data (figs. 1-15), and means for modifying image data (4:58 - 5:6, 8:44-63, 10:53-61), but does not disclose "additional ancillary" (claim 15), "modifies original ancillary" (claim 15), "apparel" (claim 16), "plurality of interchangeably presented apparel" (claim 17), "ancillary storage means" (claim 19), "ancillary image data" (claim 19), "at least one of clothing, tools and weapons" (claim 22).

Regarding features of claims 15-17, 19 and 22, texture mapping of images are so very well known in the imaging, graphics and displaying arts as demonstrated by separate classification (class 395, subclass 118-120 and 129-135, class 345, subclass 113). Further, Ohba discloses a method and apparatus of mapping which teaches features of claims 15-17, 19 and 22 by modifying apparel or clothing (24:66 - 29:7, figs. 29-30). Therefore, it

would have been obvious to one of ordinary skill in the arts at the time the invention was made to combine "additional ancillary", "modifies original ancillary", "apparel", "plurality of interchangeably presented apparel", "ancillary storage means", "ancillary image data", "at least one of clothing, tools and weapons" since texture mapping is so well known as demonstrated by separate classification and such are taught by Ohba with Bloch's system thereby allowing greater flexibility for a user to modify and enjoy alter the a/v presentations by permitting texture mapping of images.

Additionally, regarding features of claims 15-17, 19 and 22, texture mapping of images are so very well known in the imaging, graphics and displaying arts as demonstrated by separate classification (class 395, subclass 118-120 and 129-135, class 345, subclass 113). Further, Kato discloses a method of texture mapping which teaches features of claims 15-17, 19 and 22 by modifying apparel (24:66 - 29:7, figs. 1-8C) except clothing. Regarding clothing (claim 22), it would have been an obvious design implementation to combine clothing with Kato's method since Kato comprises texture mapping of apparel. Finally, it would have been obvious to one of ordinary skill in the arts at the time the invention was made to combine "additional ancillary", "modifies original ancillary", "apparel", "plurality of interchangeably presented apparel", "ancillary storage means", "ancillary image data", "at least one of clothing, tools and weapons" since texture mapping is so well known as demonstrated

by separate classification and such are taught by Kato's method (supra) with Bloch's system thereby allowing greater flexibility for a user to modify and enjoy alter the a/v presentations by permitting texture mapping of images.

Allowable Subject Matter

9. Claims 1-12 and 23 are allowed.

10. Since allowable subject matter has been indicated, applicant is encouraged to submit formal drawings in response to this Office action. The early submission of formal drawings will permit the Office to review the drawings for acceptability and to resolve any informalities remaining therein before the application is passed to issue. This will avoid possible delays in the issue process.

Conclusion

11. This supplemental action is provided to respond to the third preliminary amendment which was received but had not been entered at the time of the first Official action; therefore, this action is not made final in order for the applicant to respond to this action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. A. Sager whose telephone number is (703) 308-0785. The examiner can normally be reached on M-TH from 0700 to 1700.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Jessica Harrison, can be reached on (703) 308-2217. The fax phone number for Group 3300 is (703) 305-3590.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0858.



MAS

Aug. 25, 1997



JESSICA HARRISON
SUPERVISORY PATENT EXAMINER
GROUP 3300